

1936 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1936)
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR. }
R. O. MASON } Assistant Editors
J. S. O'BRIEN }

MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1936

8622-1. Power and curtesy abolished in certain lands.

Act abolishing dower and curtesy and statutory interests in lieu thereof in all lands conveyed by guard-

ians of incompetent married persons prior to Jan. 1, 1929. Laws 1931, c. 29.

8623. Antenuptial contracts.

Antenuptial agreements are valid. Op. Atty. Gen. (300), Nov. 23, 1934.

CHAPTER 73

Adoption and Change of Name

8624. Adoption—Petition and consent.

Specific performance of oral contract to adopt. 16 MinnLawRev578.

8626. Consent, when necessary.

When a child has a guardian of the person appointed by the probate court, the consent of such guardian is necessary to permit an adoption by proceedings in the district court. In re Martinson, 184M29, 237NW596. See Dun. Dig. 99.

Decree of adoption reversed for lack of evidence sustaining finding that infant had been abandoned by mother, there being no consent to adoption by either parent. Anderson, 189M85, 248NW657. See Dun. Dig. 99.

Possible pecuniary advantage to child is immaterial as against natural rights of parents. Id.

Consent by parent may be withdrawn at any time before adoption. Id.

8630. Status of adopted child.

When the name of an adopted child is omitted from the will of the parent, the presumption is that the omission was not intentional and was occasioned by accident or mistake. 175M193, 220NW601.

Specific performance of pre-adoption contract in derogation of adoptive parents' rights. 15MinnLawRev 719.

8633. Change of name—Procedure—Penalty.

A person may change his name without any legal proceedings whatever and may give himself a nickname and have it printed on official ballot. Op. Atty. Gen. (28b-2), May 22, 1934.

CHAPTER 73A

Dependent, Neglected and Delinquent Children

See §§208-1 to 208-9.

8636. Definitions.

Juvenile delinquents are not criminals. State v. Zenzen, 178M394, 227NW356.

No appeal lies from a decision of a juvenile court under this chapter. State v. Zenzen, 178M394, 227NW356.

Sections 8636 to 8670 are constitutional. State v. Patterson, 247NW573, 188M492, 249NW187. See Dun. Dig. 1646, 4460a.

Dependent neglected, or delinquent children are proper subjects to be placed under guardianship by the probate court. Id. See Dun. Dig. 4460a, 4096.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. Op. Atty. Gen., Oct. 30, 1930.

Act does not contemplate any additional compensation by way of fees for making records per diem or for mileage to court. Op. Atty. Gen., Nov. 25, 1933.

8637. Jurisdiction of District Court—jurisdiction of Probate Court.—The District Court in counties now or hereafter having a population of more than 40,000 inhabitants except in such counties of the Seventh Judicial District shall have original and exclusive jurisdiction in all cases coming within the terms of this act. In all trials in the district court under this act, except as hereinafter provided, any person interested therein may demand a jury, or a judge of his own motion may order a jury to try the case. In counties now or hereafter having a population of not more than 40,000 inhabitants and in all counties of the Seventh Judicial District the probate court shall have jurisdiction over the appointment of guardians of dependent, neglected or delinquent children for the purpose of this act. The jurisdiction of both the district and probate courts over cases of dependency, neglect and delinquency arising under this act shall extend to all persons resident or found within the territorial limits of the court, although the evidentiary facts showing such dependency, neglect or delinquency may have occurred outside such territorial limits.

This Act shall apply to children under the age of eighteen years, except as hereinafter provided.

When jurisdiction shall have been obtained by the court in the case of any child, such child shall continue for the purposes of this Act under the jurisdiction of the court until he becomes twenty-one years of age, unless discharged prior thereto by the court. ('17, c. 397, §2; '27, c. 192, §2; Apr. 20, 1931, c. 250, §1; Apr. 8, 1933, c. 184.)

Laws 1931, c. 250, §1, amends the first paragraph of this section to read as above.

Fact that probate court committed neglected child to guardianship until she should reach age of 21 years did not warrant her release on habeas corpus before she attained age of 19 years. State v. Patterson, 247NW573, 188M492, 249NW187. See Dun. Dig. 4431.

Legislature may fix the age at which a delinquent child shall attain majority different from that fixed for other children. Id.

Probate judge, also acting as judge of juvenile court, has no jurisdiction of prosecution of adult. Op. Atty. Gen., Mar. 31, 1932.

Judge of probate obtaining jurisdiction of a child before he has reached age of 18 has jurisdiction over him until he reaches 21 years of age and he may commit him to state training school after he has reached age of 19 years. Op. Atty. Gen., Nov. 2, 1933.

8638. Judges of juvenile court.—In counties having more than 40,000 except the Fourth Judicial District, and the counties in the Seventh Judicial District the judges of the district court shall at such times as they shall determine designate one of their number whose duty it shall be to hear all cases arising under this act, unless absent or disabled, in which case another judge shall be temporarily assigned for said purposes; and such designation shall be for the period of one year unless otherwise ordered. The judge of the juvenile court so designated shall devote his first service and all necessary time to the business of the juvenile court, and this work shall have precedence over all his other court work. When deemed advisable the district judges may designate two judges for the purposes and subject to the provisions specified in this section. A special court room, to be designated as the juvenile court room, shall be provided for the hearing of such cases, and the findings of the court shall be entered in a book or books to be kept for that purpose, and known as the "juvenile record," and the court may for convenience be called the juvenile court of the appropriate county. The title of proceedings in the juvenile court, excepting prosecutions under sections 27 and 28 of this act, shall be substantially as follows:

Juvenile Court, County of
 In the matter of as a dependent (or neglected or delinquent, as the case may be) child. ('17, c. 397, §4; '27, c. 192, §3; Apr. 20, 1931, c. 250, §2.)
 * * * * *

Laws 1931, c. 250, §2, amends the first paragraph of this section to read as above.

8640. Salary of bailiff in Juvenile Court in certain counties.—In all counties of this state having, or which hereafter shall have a population of not less

than 220,000 and not more than 330,000 inhabitants, a bailiff of the juvenile court may be appointed by the judge of the court. He shall serve four years, unless removed by the said judge for cause, and shall be in attendance at all sessions of the court, make and serve all summons, writs, warrants and processes issued out of the court and perform such other duties as may be directed by the judge. He shall have all the authority of a deputy sheriff and when his services are not required by the juvenile court, he may, with the consent of the court, be called upon by the sheriff to serve as such deputy. In case of his absence, the sheriff shall, upon request of the judge, assign a deputy to perform his duties. The bailiff shall receive a salary of \$1800 per annum which sum shall include all expenses incurred by him in the performance of his duties within the county. ('17, c. 397, §5; '27, c. 420, §6; Apr. 26, 1929, c. 405, §1.)

Sec. 2 repeals inconsistent acts. Sec. 3 provides that the act shall take effect from and after Apr. 1, 1929.

8641. Probate court as juvenile court—record—appeal.—In counties of not more than 40,000 population and in all counties in the 7th Judicial District, the judge of probate shall provide himself with a suitable book, at the expense of the county, in which he shall enter minutes of all proceedings of the court in each case; he need not record any evidence taken except as it shall seem to him proper and necessary and he shall record therein all orders, decrees and judgments made by this court except non-appealable orders. The reasons for appointing a guardian shall be entered therein and any parent or the attorney for any child may appeal from the final disposition of the guardianship matter by complying with the law regulating appeals from probate courts. When acting under the provisions of this Act the probate court may for convenience be called the juvenile court of the appropriate county. ('17, c. 397, §6; Mar. 20, 1931, c. 82, §1; Apr. 20, 1931, c. 250, §3; Apr. 10, 1933, c. 204, §1.)

No appeal lies from an order of the probate judge, sitting as a juvenile court judge, adjudging a minor delinquent. Op. Atty. Gen., May 5, 1931.

Where probate judge acts as judge of juvenile court, records of that court in cases brought while the district judge was juvenile judge should remain in the office of the clerk of the district court and the new files in the office of the probate judge. Op. Atty. Gen., Aug. 15, 1931.

Where judge of probate court is made judge of juvenile court in place of one of the judges of the district court so acting, the clerk of the district court no longer acts as clerk of the juvenile court. Op. Atty. Gen., Aug. 19, 1931.

Probate judge acting as judge of the juvenile court has no authority to appoint an attorney for an indigent applicant for a mother's pension. Op. Atty. Gen., Aug. 21, 1931.

8642. Petition.

The responsibility for placing children in homes is now with the juvenile court and the board of control rather than with the county board. Op. Atty. Gen., Jan. 13, 1930.

8643. Summons—Service—Notice, etc.

Where a petition was filed in probate court to have certain children committed to state public school as dependent, and pending investigation the children were removed to another county, the probate judge could not go to such other county and hold hearings and commit the children. Op. Atty. Gen., Mar. 27, 1931.

It is duty of county attorney to appear in connection with proceedings in juvenile court for commitment of children as dependent, neglected or delinquent. Op. Atty. Gen., Sept. 27, 1932.

8644. Probation officers—Duties—Compensation.

The court shall have authority to appoint one or more persons of good character to serve as probation officers during the pleasure of the court. Such probation officers shall act under the orders of the court in reference to any child committed to their care, and in the performance of their duties shall have the general powers of a peace officer; and it shall be their duty to make such investigations with regard to any child as may be required by the court before, during or after the trial or hearing, and to furnish to the court such information and assistance as may

be required; to take charge of any child before or after trial or hearing whenever so directed by the court, and to keep such records and to make such reports to the court as the court may order. Probation officers heretofore or hereafter appointed under the provisions of chapter 154, General Laws of Minnesota, 1899, and all laws amendatory thereof, being sections 9385, 9386, 9387, 9388, 9389, 9390 and 9391, General Statutes 1913, shall be subject to the orders of the court in reference to all matters covered by the provisions of this Act. Probation officers appointed under authority of this Act shall serve without compensation from the county; provided that in counties of more than 40,000 population, except those of the 7th Judicial District, a majority of the judges of the district court may direct the payment of such salary to probation officers as may be approved by the county board; and provided further that in other counties probation officers shall receive the same fees as constables for similar services, including all travel, and in addition thereto such salary as may be fixed by the judge and approved by the county board. ('17, c. 397, §9; Apr. 10, 1933, c. 204, §1.)

8646. Neglected or dependent children—disposition

—When any child shall be found to be dependent or neglected, within the meaning of this act, the court may make an order committing the child to the care of the state board of control, or of the state public school or some other suitable state institution, or to the care of some reputable citizen of good moral character, or to the care of some association willing to receive it, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, which association shall have been accredited as provided by law. The court may continue the hearing from time to time without making an order of final commitment as above provided for, and in such case may make an order committing the child to the temporary care or custody of any such citizen or association. In appropriate cases the child may be left with the parents subject to such remedial supervision as the court may direct. The court may, when the health or condition of the child shall require it, cause the child to be placed in a public hospital or institution for treatment or special care; or in private hospital or institution which will receive it for like purpose without charge. A dependent child shall not be taken from his parents without their consent unless, after diligent effort has been made to avoid such separation, the same shall be found needful in order to prevent serious detriment to the welfare of such child. Before making an order of final commitment to the state board of control or the state public schools provided for by this section, the court shall give the state board of control at least ten days notice of the time and place where such order may be made and shall consider such evidence, report or recommendation as the board of control may make concerning the case. Upon making any order of final commitment, the judge or clerk shall mail or deliver a copy thereof to the state board of control. ('17, c. 397, §11; Apr. 1, 1935, c. 82, §1.)

Court may commit child to private charitable institution and require county to pay for its care as long as the court in its discretion directs. Op. Atty. Gen., Mar. 18, 1929.

Expense of placing minor child with respectable household cannot be charged against county. Op. Atty. Gen., Oct. 6, 1933.

8648. Hearing—Continuance—Commitment by court, etc.

Probate court has no jurisdiction to commit delinquent girls to the Home School for Girls, its jurisdiction being limited to the appointment of the state board of control as guardian. Op. Atty. Gen., Dec. 23, 1931.

8651. Guardians for delinquents in probate court.

Probate court has no jurisdiction to commit delinquent girls to the Home School for Girls, its jurisdiction being limited to the appointment of the state board of control as guardian. Op. Atty. Gen., Dec. 23, 1931.

8656. Criminal proceedings.

Prior felony against juvenile disposed of in district court is considered prior conviction under Baumes Act. Op. Atty. Gen., May 13, 1932.

8660. Support by parents.—In any case in which the juvenile court of a county having a population of over 40,000, except those of the 7th Judicial District, shall find a child dependent, neglected or delinquent, it may, in the same or a subsequent proceeding, upon the parents of said child, or either of them, being duly summoned or voluntarily appearing proceed to inquire into the ability of such parent or parents to support the child or contribute to his support, and if the court shall find such parent or parents able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its orders or decrees. ('17, c. 397, § 25; Apr. 10, 1933, c. 204, § 1.)

8662. Responsibility of parents, guardians, etc.

Boys regularly employed as newspaper carriers are exempt from the provisions of the law only while distributing papers to their regular subscribers, and not at times that they are on the street in their regular districts selling papers. Op. Atty. Gen., Nov. 25, 1931.

Probate judge, also acting as judge of juvenile court, has no jurisdiction of prosecution of adult. Op. Atty. Gen., Mar. 13, 1932.

8664. Expenses in probate court, how paid.

Probate judge is not entitled to reimbursement from the county for his expenses in attending a convention of the Probate Judges' Association. Op. Atty. Gen., Feb. 9, 1931.

Where a petition was filed in probate court to have certain children committed to state public school as dependent, and pending investigation the children were removed to another county, the probate judge could not go to such other county and hold hearings and commit the children. Op. Atty. Gen., Mar. 27, 1931.

Probate judge acting as judge of the juvenile court has no authority to appoint an attorney for an indigent applicant for a mother's pension. Op. Atty. Gen., Aug. 21, 1931.

Fees collected under this section may be retained by judges of probate. Op. Atty. Gen., Apr. 13, 1932.

Where sheriff investigated crime and ran up mileage and it later developed that case was one for juvenile court, sheriff was not entitled to mileage. Op. Atty. Gen., July 1, 1932.

Expenses of county attorney when acting upon order of juvenile court in proceeding for commitment of dependent, neglected or delinquent children, should be paid by juvenile court and not out of contingent fund. Op. Atty. Gen., Sept. 27, 1932.

8665. Payment of salaries, etc.

County must stand the expense of transporting a minor committed to the State Training School at Red Wing. Op. Atty. Gen., Sept. 1, 1931.

8671. Allowances to mothers for support of dependent children in own homes—etc.—Whenever any child under the age of eighteen years who is regularly attending school, if physically able and above the minimum school age, or who is under compulsory school age, or who is physically unable to attend school, or who is over compulsory school age, but through physical or mental disability is unable to be employed, or who is over compulsory school age and unemployed, but is of such intelligence and mental capacity as to make further schooling inadvisable in the opinion of the court and his unemployment is without fault on his part, is found by a juvenile court to be dependent the court shall, when requested so to do, and in the same proceeding, make its findings upon the following points:

(a) Whether the mother of the child is a widow;
(b) If her husband is living;

(1) Whether he is an inmate of a penal institution under a sentence which will not terminate within three months after the date of such finding;

(2) Whether he is an inmate of a state institution for insane, epileptic, inebriate, or feeble-minded persons; or a fugitive after escape therefrom and the mother has in good faith assisted the proper authorities in all reasonable efforts to apprehend him and return him to the institution from which he escaped;

(3) Whether he is unable to labor for the support of his family by reason of physical or mental disability of such nature as to be at least of four months continuous duration from and after the date of such findings;

(4) Whether there is and has been for three months past an outstanding warrant for his arrest on a charge or after conviction for the crime of abandoning such child, or for abandoning his wife while pregnant, and the mother has in good faith assisted the proper authorities in all reasonable efforts to apprehend him pursuant to such warrant.

(c) Whether the dependency of the child is due to the poverty of the mother without neglect, improvidence or other fault on her part;

(d) Whether the mother is otherwise a proper person to have the custody of the child;

(e) Whether the welfare of the child will be subserved by permitting him to remain in the custody of the mother, if adequate means of support shall be provided;

(f) Whether the mother is a citizen of the United States or has made application to become a citizen of the United States or has made declaration of intention to become a citizen and has resided two years continuously last past in the state and one year continuously last past in the county.

Upon the making and filing of findings that the mother is a widow or that support is not obtainable from her husband by reason of one of the alternatives specified in subdivision (b) of this section, together with findings in the affirmative upon the points specified in subdivisions (c), (d), (e), and (f) of this section, the court shall further find, and order the payment of the sum of money which it deems necessary for the county to allow the mother in order to enable her to bring up the child properly in her own home, not exceeding \$20.00 per month for one child and not exceeding \$15.00 per month for each additional child; provided, however, that no allowance shall be made when the husband is the subject of an outstanding warrant of arrest for abandonment, as enumerated above, unless the court is satisfied that he is a fugitive from justice and that the mother has in good faith assisted and will continue to assist in all reasonable efforts to apprehend him.

Before making the findings above specified the court, in counties having a population of not more than 40,000 and in all counties in the 7th Judicial District, shall notify the county attorney of the county, and the county commissioner of the district in the county wherein the mother resides, that an application has been made for the payment of an allowance. Such notice shall specify the name of such child and the name and address of the mother of such child and also specify the time and place when and where the court will hear the evidence relevant to the matters upon which the making of such findings depends.

Such notice shall be given at least one week before the date of hearing on such application, shall be in writing and may be given by mail. It shall be the duty of the county attorney, and of such county commissioner, to investigate the financial condition and status of such child or children and that of the mother. The county attorney shall appear at the time and place specified for such hearing and participate therein and present to the court such evidence or information as may be within his knowledge, relevant to the matters on which the making of such findings depends, and such county commissioner shall report to the court any information he may have relating to the application, and make such recommendations as he deems proper. ('17, c. 223, § 1; '19, c. 328, § 1; '21, c. 435, § 1; '25, c. 355, § 1; Apr. 10, 1933, c. 204, § 1; Mar. 20, 1935, c. 57, § 1.)

Act Apr. 10, 1933, c. 204, § 2, cited, provides that the act shall take effect from its passage.
See §§ 208-1 to 208-9.

Fact that family has settlement for purposes of poor relief in another county and is entitled, or is receiving relief, is relevant only in determining amount of mother's pension to be awarded. *State v. Juvenile Court of Wadena County, 188M125, 246NW544. See Dun. Dig. 4460b.*

Mother's pension law, being newer, prevails over poor laws to extent of conflict. *Id.*

"Residence" in mother's pension statute is not synonymous with "settlement" under poor laws, and residence for one year, as distinguished from settlement, is condition precedent. *Id.*

Judge of probate has no right to pay out any money in dependency cases until he has made findings under this section. *Op. Atty. Gen., Aug. 9, 1929.*

A woman with dependent children is entitled to pension where her husband has deserted her and she has obtained a divorce on that ground, and where there is an outstanding warrant for his arrest which has remained unserved for 3 months, or where there has been a conviction for abandonment. *Op. Atty. Gen., July 23, 1930.*

County commissioner investigating financial condition and status of children is not entitled to a per diem and mileage. *Op. Atty. Gen., Sept. 18, 1930.*

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. *Op. Atty. Gen., Oct. 30, 1930.*

An allowance made by a county to a mother terminates when the mother ceases to be a resident of the county. *Op. Atty. Gen., Feb. 20, 1931.*

A county attorney required to make investigations in connection with applications of mothers for county allowances is entitled to take expenses necessarily incurred out of his contingent fund. *Op. Atty. Gen., Mar. 26, 1931.*

A county attorney may use his own automobile and receive compensation therefor from the county out of his contingent fund or otherwise. *Op. Atty. Gen., Mar. 26, 1931.*

Right to mother's pension does not depend upon a person's "settlement," but upon her "residence" for the prescribed period of time, and the fact that widow was moved out of another county where she had settlement for the sole purpose of obtaining a mother's pension was immaterial. *Op. Atty. Gen., June 12, 1931.*

A mother is entitled to an allowance on account of a child under sixteen who has completed the eighth grade. *Op. Atty. Gen., Sept. 23, 1931.*

No notice to county attorney and county commissioner is necessary. *Op. Atty. Gen., Feb. 28, 1933.*

Daughter supporting dependent sisters is not entitled to aid under Mothers' Pension Law. *Op. Atty. Gen., Apr. 8, 1933.*

One supporting dependent sister is not entitled to mother's pension. *Op. Atty. Gen., Apr. 8, 1933.*

Neither county commissioner nor county attorney is entitled to reimbursement for mileage for investigations with reference to mother's pensions. *Op. Atty. Gen., June 14, 1933.*

County attorney in counties where a contingent fund has been set aside by county board is entitled to reimbursement of traveling expenses in connection with investigations of mothers' pension cases. *Op. Atty. Gen., Sept. 12, 1933.*

Act does not contemplate any additional compensation by way of fees for making records per diem or for mileage to court. *Op. Atty. Gen., Nov. 25, 1933.*

Payment of poor relief by an adjoining county does not prevent mother from establishing a residence for purpose of mother's pension. *Op. Atty. Gen., Dec. 19, 1933.*

Public officers whose salaries are fixed by law are not entitled to compensation for mileage in connection with duties concerning investigations under mother's pension act. *Op. Atty. Gen., Mar. 12, 1934.*

Receipt of a mother's pension from one county would not prevent establishment of a settlement in another county for poor relief purposes. *Op. Atty. Gen. (335b), June 28, 1934.*

Right to receive a pension from a particular county is terminated by a change of residence to another county, and upon change of residence there is one year in which mother is not entitled to a pension from any county. *Id.*

Residence for purpose of mother's pension may be acquired in this state while receiving widow's pension from another state. *Op. Atty. Gen. (335b), Dec. 13, 1934.*

Neither county commissioners nor county attorney are entitled to mileage in connection with investigation of poor relief and mother pension cases. *Op. Atty. Gen. (359a-14), Mar. 12, 1935.*

Poor board of county operating under county poor system cannot refuse to pay mother's pension allowed by juvenile court. *Op. Atty. Gen. (335b), Apr. 8, 1935.*

Provisions of law are in effect and operate alike in all counties of the state and are compulsory. *Op. Atty. Gen. (335b), Apr. 17, 1935.*

Applicant not entitled to pension unless she lived for year previous to application in county. *Op. Atty. Gen. (335b), May 7, 1935.*

(a). Grandmother may make application for allowance where mother is living in another county and unable

to support children, but grandmother is subject to same conditions as to husband living as mother of children. *Op. Atty. Gen., Nov. 29, 1933.*

(b). Statute makes no provision for the payment of allowances to a divorced mother. *Op. Atty. Gen., Mar. 4, 1931.*

A person paroled from prison is not an "inmate" of the prison within this section. *Op. Atty. Gen., Dec. 9, 1931.*

(f). Mother's pension is different from poor relief and right to receive from county granting it may be lost by changing residence to another county. *Op. Atty. Gen., Dec. 20, 1933.*

8672. Same—Order for allowance—Filing—Warrants—Payment.

A certified copy of such order shall be filed with the county auditor and thereafter, so long as such order remains in force and unmodified, it shall be the duty of the County Auditor each month to draw his warrant on the general revenue or poor fund of the county in favor of the mother for the amount specified in such order. The warrant shall be delivered to the clerk of the court making the order and shall by the latter be delivered to the mother upon her executing a receipt therefor, to be retained by the clerk with the other records in the proceedings relating to the child. It shall be the duty of the County Treasurer to pay the warrant out of the general revenue or poor fund of the county when properly presented. The court may for cause duly shown revoke or modify any order previously made. A certified copy of any such subsequent order shall forthwith be filed with the County Auditor and thereafter warrants shall be drawn and payments made only in accordance with such subsequent order. This act shall not authorize the County Auditor, in any county now or hereafter caring for the poor of the county under the commission system to draw his warrant on the poor fund of such county in favor of any mother for the amount specified in any such order. ('17, c. 223, §2; '23, c. 189, §1; '25, c. 355, §2; Mar. 20, 1935, c. 57, §2.)

Mason's Stat., §3177 is still in effect in counties having town system, and such counties may levy in excess of the five mill limitation for poor purposes, and this levy may include moneys for the payment of mother's pensions. *Op. Atty. Gen., Oct. 30, 1931.*

Settlement may be acquired by poor relief purposes during period that mother's pension is received. *Op. Atty. Gen. (335b), May 3, 1934.*

It is mandatory duty of county officials to draw warrants to pay pension after certified copy of court order granting an allowance to mother. *Op. Atty. Gen. (335b), Apr. 17, 1935.*

8673—Court may impose conditions.

The Court may require any mother to whom an allowance is made under this act to make a reasonable effort to learn the English language and customarily use the same in her family. The court may also require the mother to do such remunerative work outside her own home as she can do without detriment to her health or neglect of her family and may limit the number of days per week when she may be employed. The court may also impose such other reasonable conditions as to it may seem just and proper under all the circumstances involved and with a view to furthering the intent and purpose of this act. ('17, c. 223, §3; Mar. 20, 1935, c. 57, §3.)

8675—Same—Investigations—Supervision after allowance—Reports.

—Before making any order or allowance under this act it shall be the duty of the court, either through the judge in person or through the county child welfare board and its agents or a probation officer designated for that purpose or an official investigator appointed as provided in Section 8676 and Section 8677, General Statutes 1923, to make inquiry as to all the points necessary to establish the right to such allowance; and particularly to inquire whether the surroundings of the household, including its other members, are such as to make for the good character of children growing up therein; to ascertain all the financial resources of the family, and if need be to urge upon any members their proper contribution; to take all lawful means to secure support for the family from relatives under legal ob-

ligation to render such support; to ascertain the ability of other relatives to assist the family and to interview individuals, societies and other agencies which may be deemed appropriate sources of such assistance. Every family to which an allowance has been made shall be visited at its home by a representative of the court at least once in three months; and after each visit the person making the same shall make and keep on file as a part of the official record of the case a detailed statement of the condition of the home and family, and all other data which may assist in determining the wisdom of the allowance granted and the advisability of its continuance; and the court shall at least once in each year reconsider every case in which an allowance has been made, and take such action as the facts then existing shall warrant. All findings and orders provided for herein may be made upon the written reports of official investigators with like effect as if based upon competent testimony given in open court. ('17, c. 223, §5; '25, c. 355, §3; Mar. 20, 1935, c. 57, §4.)

No formal hearing is necessary to modify or revoke a mother's allowance. Op. Atty. Gen., Aug. 31, 1931.

No notice is required to modify or revoke mother's allowance. Op. Atty. Gen., June 28, 1933.

8677. Official investigators.—In counties having over 200,000 and not to exceed 330,000 population the judge of the juvenile court may appoint one supervisor and one or more investigators for the investigation of application for allowance under this act, whose duty it shall be to visit the homes of the applicants and ascertain all the relevant facts and circumstances including the facts specified in the preceding section and make report in such form as the court may require. In counties having over 200,000 and not to exceed 250,000 population each person so appointed shall receive such salary as shall be fixed by a majority of the judges of the district court and approved by the county board. Such salary, however, of said supervisor shall not exceed \$2,400.00 per annum and of said investigators \$1,800.00 per annum. In counties having over 250,000 and not to exceed 330,000 population such salary of said supervisor shall not exceed \$1,500.00 during the first year of service of such supervisor, except a supervisor in service now, who shall receive the salary now provided by law, \$1,600.00 during the second year of service and \$1,800.00 during and after the third year of service of such supervisor, and such salaries of such investigators shall not exceed \$1,200.00 during the first year of service of any investigator except those in service now, who shall receive the salary now provided by law, \$1,300.00 during the second year of service, \$1,400.00 during the third year of service and \$1,500.00 during and after the fourth year of service of any such investigator. Such salary shall be paid as other salaries are paid out of the county treasury, together with all expenses certified by the judge to have been necessarily incurred by them in the performance of their duties. ('17, c. 223, §6; '19, c. 333, §1; '21, c. 316, §1; Apr. 24, 1931, c. 326.)

8679. What property a bar to aid.—The ownership by a mother or husband of property as follows shall be a bar to any allowance under this act:

(1) Personal property of a reasonable market value in excess of \$100.00, exclusive of appropriate clothing and necessary household furniture and equipment, and of such tools, implements and domestic animals as in the opinion of the court it is expedient to retain for the purpose of reducing the expense or increasing the income of the family; or

(2) Real estate not used as a home, provided that if such real estate produces no gross income and there is no available market for the sale of such property, or if the price which can be obtained on the prevailing market is not fair and reasonable considering the applicant's interest therein and the possibilities of sale of said property for a greater amount within a reasonable length of time thereafter then, in that event, in the discretion of the court, ownership of the

same shall not be a bar to allowance under this act, or

(3) Real estate when used as a home, of a value disproportionate to the needs of the family.

The ownership, however, of not more than \$500.00 shall not be a bar to an allowance if the applicant has no real property or other personal property, except appropriate clothing and necessary household furniture and equipment, and such tools, implements and domestic animals as in the opinion of the court it is expedient to retain for the purpose of reducing the expenses or increasing the income of the family, and if all but \$100.00 thereof shall be deposited in trust with a proper depository to be designated by the court, the income therefrom to be used in lieu of an equivalent amount of the allowance ordered by the court, the principal to be returned to the applicant upon the discontinuance of the allowance. ('17, c. 223, §8; Mar. 28, 1929, c. 101; Mar. 20, 1935, c. 57, §5.)

8680. Definitions.—The word "husband" in this act may denote either the father of a dependent child or a stepfather of whose family the child is or has been a member. The word "mother" may denote either the mother or a stepmother of whose family the child is a member. The word "child" shall include an illegitimate child living in the same household with a legitimate child of the same mother. ('17, c. 223, §9; Mar. 20, 1935, c. 57, §6.)

8681. Allowance to grandmother.—Whenever the court shall be of the opinion that the welfare of a dependent child will be best served by permitting such child to live in the family and under the care of a grandmother of such child, and where such person meets the requirements of residence and citizenship as contained in Mason's Minnesota Statutes of 1927, Section 8671 (f), as amended and is found to be a proper person mentally, morally, and physically to care for and bring up such child, and where a finding has been made that support is not obtainable from the father of such child by reason of one of the alternatives specified in Mason's Minnesota Statutes of 1927, Section 8671, subdivision (b) as amended, the court may grant such person such allowance as is provided for such child by this act, provided, however, that no allowance shall be made to the grandmother for the care of such child where the grandparents are able and required to support such child pursuant to the provisions of Section 3157 of Mason's Minnesota Statutes for 1927. ('17, c. 223, §10; Mar. 20, 1935, c. 57, §7.)

Grandmother may make application for allowance where mother is living in another county and unable to support children, but grandmother is subject to same conditions as to husband living as mother of children. Op. Atty. Gen., Nov. 29, 1933.

8683. Financial aid for dependent children—Board of Control to supervise.—The State Board of Control shall supervise and direct the administration of all laws of this state dealing with the granting of financial aid to dependent children and to the mothers thereof. It shall make such rules and regulations as to it seem fitting and proper to promote efficiency and uniformity in said administration and as may be necessary in the securing of such reports as shall be necessary to carry out the purposes of this Act and to comply with the rules and regulations of the Social Security Board of the United States as prescribed in the Social Security Act of the United States and it shall have the power and authority to withhold financial assistance from any political subdivision of the state which fails to comply with its rules and regulations and with the requirements of said Social Security Act. It shall have power to accept the provisions of the Social Security Act and signify its acceptance by a resolution duly adopted and certify the same over the signature of its chairman to the Social Security Board of the United States. All contributions received by the State of Minnesota or the State Board of Control under the authority of Title IV of the Social Security Act of the United

States entitled "Grants to States for Aid to Dependent Children" shall be paid to the treasurer of the State of Minnesota and shall be disbursed only upon warrants drawn upon said fund by the state auditor pursuant to the provisions of this Act. It shall make such reports to the Social Security Board as may be required from time to time. It shall advise and cooperate with courts and supervise and direct county child welfare boards with respect to methods of investigation, oversight and record keeping; shall devise and recommend blank forms; may by its agents visit and inspect families and children to which allowances have been made whenever it deems it necessary; shall have access to all records and other data kept by court and other agencies of all political subdivisions concerning such allowances and shall require such reports from the Clerks of Courts, Child Welfare Boards, Probation Officers, and other official investigators as it shall deem necessary.

The State Board of Control shall grant to any individual, whose claim with respect to aid for a dependent child is denied an opportunity for a fair hearing before said Board, and to that end it may take testimony, require the production of the files and records of such administrative boards and courts as may be material. It shall make and establish uniform rules and regulations governing such hearings.

Financial assistance shall not be denied for any child who is a resident of this state and who has resided in the state for one year immediately preceding the application for such financial assistance or which child was born within the state within one year immediately preceding the application for such financial assistance if the condition and situation of such child satisfies the other requirements made necessary by the laws of this state; notwithstanding any provisions of the laws of this state to the contrary. ('17, c. 223, §12; Apr. 29, 1935, c. 326, §1.)

8683-1. County Auditor to certify amount paid out.—The State Board of Control shall by regulation require each county auditor of each county in the state at such times as to it seem fitting and proper to certify under oath, in duplicate, to the state auditor and the State Board of Control the amount paid out by said county during such period as the State Board of Control shall designate for allowances under Section 8671-8689, Mason's Minnesota Statutes of 1927 as amended; and if the said county shall have complied with the rules and regulations of the State Board of Control with respect to said allowances and with respect to furnishing reports required by the State Board of Control, and if the State Board of Control shall approve the same, it shall cause its approval to be endorsed by its chairman upon said report and shall so certify to the state auditor and shall make a further certificate to the state auditor showing the amount of money received by the State of Minnesota from the United States of America as its contribution by reason of the expenditures made or anticipated by said county, whereupon the state auditor shall draw his warrant to the county treasurer of said county for said amount out of said fund and whereupon the

state auditor shall further draw his warrant to the county treasurer of said county for a like amount payable out of the monies hereinafter appropriated for such purpose but said reimbursement, out of the monies hereinafter appropriated, shall in no event exceed one-third of the amounts expended by said county. (Act Apr. 29, 1935, c. 326, §2.)

8683-2. To be dependent on federal aid.—In the event that the federal government makes available a sum of money to the State of Minnesota that will pay, not to exceed one-third of the amount paid by each county, for the support of dependent children under the provisions of this act, then, in that event and not otherwise, there is hereby appropriated the sum of \$150,000 per annum which sum shall be used for state administration and state participation in support for dependent children, not more than \$25,000 per annum of which said sum shall be used for administration expense, and the balance of said sum shall be distributed to the counties of the state in proportion to the amount of money which each county shall have paid for support of dependent children, not however including the administration expenses of such county. (Act Apr. 29, 1935, c. 326, §3.)

§§8688-1, 8688-2 [Repealed].

Repealed Mar. 20, 1935, c. 57, §8.

8689. Inconsistent acts repealed.

See §§208-1 to 208-9.

8689-1. Care of dependent children unsuitable for adoption or for commitment to state school for feeble-minded—definition—commitment to state board of control.—Whenever a juvenile court shall find a child to be dependent or neglected and it appears that such child is not at the time a proper subject for commitment to the state school for the feeble-minded, but is so handicapped physically or mentally that he cannot be admitted to the state public school or be placed in a home for adoption, the court may commit such child to the care of the state board of control as a child needing specialized care in order that he may receive study, treatment, and care designed to fit him, if possible, to be placed out for adoption or to become self-supporting. A child may be adjudged to be a dependent or neglected child needing specialized care when it appears: (a) That he is the offspring of incestuous cohabitation; (b) That one or both of his parents are feeble-minded, epileptic or insane, and the probable permanent mental status of the child is as yet undetermined; (c) That he is crippled, deformed, has serious physical defects or is afflicted with tuberculosis, venereal disease, or other communicable or offensive disease that renders his presence offensive or a menace to others; (d) That he is affected by habits, ailments, or handicaps that produce erratic and unstable conduct. ('25, c. 303, §1; Apr. 1, 1935, c. 82, §2.)

8689-2. Same—Duties of board of control—Etc.

State Board of Control may authorize surgical operation upon or immunization against diphtheria to a child committed to its guardianship as unsuitable for adoption. Op. Atty. Gen., Aug. 27, 1932.